Section 1. Waterbodies Most at Risk

Including non-blooming lake watersheds most at risk,
and coastal wetlands, rivers, streams and brooks most at risk

This section describes when a permit by rule may be used for a project in the direct watershed of a waterbody most at risk from new development. The section identifies each standard required by rule (text in boxes), followed by explanatory material and recommended best management practices intended to assist the applicant. The plan that must be submitted with the permit by rule form is also described. The entire text of the permit by rule provision is attached for reference (page 9).

A. When permit by rule applies

- **The applicant may apply for permit by rule when** a project will be located within the direct watershed of a lake (non-blooming), coastal wetland, or river, stream or brook most at risk from new development; will create less than one acre of impervious area; and will not require a Site Law permit.

- **The permit by rule will be approved if** the applicant demonstrates that applicable standards will be met, as determined by the department.

B. Standards and additional information

(1) STANDARD: Flow to Buffer. At least 90% of the project's impervious area must either drain overland in unconcentrated and unchannelized flow to a buffer, or be evenly delivered in unconcentrated and unchannelized flow to a buffer by means of a level spreader.
See Chapter 500.7(A).

- **Buffer.** A **buffer** is a vegetated, non-lawn area that is located down-gradient from a project. The buffer stores and removes pollutants from the stormwater runoff flowing from the project. In order for an area to function as a buffer, stormwater needs to be able to flow through it, and not become concentrated in channels. Therefore, buffers generally have a relatively uniform slope, and are not interrupted by intermittent stream channels or other drainage ways. More than one buffer may be used.

- **Unchannelized sheet flow.** In order for the buffer to be effective, the stormwater runoff must enter the buffer in **unchannelized sheet flow**. Many sites can easily be graded so that runoff is not concentrated within the developed portion of the site, and sheets uniformly off the edge of the developed area into an adjacent buffer. Sometimes, however, site topography and the relative location of the buffer require that runoff be collected and directed to the buffer in channelized flow. In this case, channelized runoff should be distributed evenly along a contour at the uphill edge of the buffer by means of a level spreader.

- **Level spreader.** A **level spreader** is a trench/berm system, built along the contour, that spreads the runoff out in even, sheet flow to the down-gradient buffer. A level spreader needs to be long enough to distribute runoff over enough buffer area so that the buffer is not overloaded with stormwater. In order for the buffer area to be able to function adequately,

the department recommends that the level spreader be at least 120 feet long for every acre of contributing impervious area. For example, if one quarter acre of parking lot drained to a buffer via a level lip spreader, the level spreader should be at least 30 feet long. Since level spreaders need to be located along the contour, site layout and topography may prevent creation of a single, long level spreader, and require that the developed area be graded so that portions of it drain separately, each to its own shorter spreader. All level spreaders need to be inspected and maintained regularly.

(2) STANDARD: Width of Buffer

If the project drains to a most at risk lake:
-and the buffer is **wooded,** the buffer must be at least **75 feet** wide
-and the buffer is **non-wooded**, the buffer must be at least **125 feet** wide

If the project drains to a most at risk coastal wetland, river, stream or brook:
-and the buffer is **wooded,** the buffer must be at least **50 feet** wide
-and the buffer is **non-wooded**, the buffer must be at least **100 feet** wide

See Chapter 500.7(A)(1)-(2)

• **Buffer size.** The buffer width required to meet the permit by rule standards varies depending upon the nature of the most at risk waterbody to which the project drains, and whether the buffer is a wooded or not. Buffer width is measured along the direction of flow through the buffer.

In order for an area to function as a buffer, the area of the buffer also needs to be large enough to receive the runoff draining to it. The department recommends that the impervious area draining to the buffer be no larger than four times the effective area of the buffer.

• **Buffer type.** A **wooded buffer** is a buffer that is completely, or nearly completely, covered by a canopy of trees and other woody vegetation, and that has an undisturbed organic duff layer. A "wooded buffer" is also a buffer that is planted, or allowed to revert, to such a condition.

A **non-wooded buffer** is a buffer with a dense, uninterrupted cover of grassy vegetation. It does not include lawn areas. In order to function properly, the buffer should be mown no more than three times per year, to a height of no less than 6 inches. Buffers that include a mixture of wooded and non-wooded areas are considered non-wooded.

(3) STANDARD: Wellhead protection area (public water supply). Any project proposing infiltration of stormwater within the wellhead protection area of a public water supply must provide adequate pre-treatment of stormwater prior to discharge of stormwater to the infiltration area, if pre-treatment is recommended as part of applicable stormwater best management practices or required by the department. The infiltration area must minimize discharge of soluble pollutants to groundwater, and must be maintained in order to assure that its capacity for infiltration and pollutant removal is unimpaired.
See Chapter 500.3(J) and 4(C).

The referenced standards require that adequate treatment of stormwater be provided if the stormwater contains pollutants that may reasonably affect groundwater quality. A buffer controls the quantity and quality impacts of stormwater runoff in part through filtration of the stormwater through soil. A certain portion of the runoff discharged to a buffer may infiltrate to groundwater. The effectiveness of the filtration depends upon the types and amounts of pollutants, and characteristics of the soil.

• **Wellhead Protection Area.** A **wellhead protection area** is defined, for the purposes of the stormwater rules, as the area around a public water supply well within which contaminants introduced to groundwater are most likely to have adverse impacts on the quality of water supplied by the well. The definition of "public water supply" under the stormwater rules does not include all wells which are classified as public water supplies by the Department of Human Services; non-community transient water supplies, such as those serving many restaurants, service stations, small shops, campgrounds, and similar facilities, are not considered public water supplies under the stormwater rules. **Maps** showing wellhead protection areas of all public water supplies, including those covered by the stormwater rules, are generally available from the municipality, the owner of the supply, or the Department of Human Services.

Although pollutants in stormwater may contribute to groundwater contamination, many of these pollutants can be removed or minimized with proper site design. The following points should be considered when designing an infiltration system:

- Runoff from residential use areas is generally low in pollutants with potential to impact groundwater, except for road salt and possibly lawn and garden products. Runoff from commercial or industrial sites, however, may contain toxic pollutants which can adversely affect groundwater quality. Applicants seeking a permit-by-rule for these sites should try to use areas outside a wellhead protection area for a buffer.

- Runoff from lawn or landscaped areas may be discharged to a wellhead protection area with relatively low risk of causing contamination, particularly if lawn chemicals or similar substances are not used or used sparingly. The treatment provided by a vegetated buffer, particularly a wooded buffer, can remove many of these pollutants present in the runoff.

- Runoff from areas of the site used for transfer of fuel, where pesticides and herbicides are used, or where other materials which are potential contaminants are tranferred or handled, should generally not be directed to buffers including wellhead protection areas.

- Runoff from paved areas of the site should be diverted away from wellhead protection areas.

If there is no reasonable alternative to infiltration within a wellhead protection area, the applicant may obtain some pollutant removal by locating grass filter strips upgradient of the buffer, by using grassed swales and level spreaders to deliver runoff to the buffer, or by providing other means to filter runoff or trap sediment before water reaches the wellhead protection area.

C. Submission -- The Buffer Plan. Submit the following three items with the Stormwater Permit By Rule Notification Form.

(1) Location map. A U.S.G.S. topo map or Maine Atlas & Gazetteer Map with the project site clearly marked.

(2) Two copies of a site plan. The plan may be hand drawn, but must be to scale. The area to be designated as a buffer must be clearly identified with dimension labels on the site plan of the project. Show the following.

(a) All existing (pre-7/1/97) and proposed impervious areas (buildings and paved or gravel roads, driveways, and parking areas). Please indicate what is existing, and what is proposed.
(b) Property line locations.
(c) Clearly designated buffer areas with dimensions, buffer type and the condition of current vegetation (i.e. forest, field, lawn) shown.
(d) Arrows showing slope and the direction of stormwater flow on the site and through the buffer.
(e) Location of any stormwater conveyances or channels (i.e. ditches, swales, pipes, culverts) and any level spreaders.
(f) Location of the limits of any wellhead protection areas or parts of wellhead protection areas which are within the buffer.
(g) Design details of any ditches, swales or level spreaders.

(3) Photos of the buffers. Draw arrows showing the direction of flow through the buffers. Photos should show the type of vegetation in the buffers, and general topography of the buffers.

(4) A copy of a notarized declaration of covenants and restrictions. File the original at the county registry of deeds within four weeks of submitting the notice form. Three acceptable templates for the declaration are attached, one for a non-wooded buffer and two options for wooded buffers, no disturbance and limited disturbance. Others may be approved by the department on a case-by-case basis. In order to continue to function, the buffer and any level spreader needs to be maintained over the long term. Filing at the registry helps to make future owners aware of buffer locations and any restrictions on activities, such as harvesting trees or disturbing the forest floor, within the buffer.

Section 2. Sensitive or Threatened Region or Watershed

This section describes when a permit by rule may be used for a project in a sensitive or threatened region or watershed. The section identifies basic stabilization standards required by rule (text in boxes), followed by explanatory material and recommended best management practices intended to assist the applicant. The plan that must be submitted with the permit by rule form is also described. The entire text of the permit by rule provision is attached for reference (page 9).

A. When permit by rule applies

- **The applicant may apply for a permit by rule when** a project will be located in a sensitive or threatened region or watershed, will create less than three acres of impervious area and less than five acres of disturbed area on the parcel, and will not require a Site Law permit.

- **The permit by rule will be approved if** the applicant demonstrates that applicable standards will be met, as determined by the department.

B. Standards and additional information

(1) STANDARD: Ditches, Swales, and Other Open Stormwater Channels. Ditches, swales, and other open stormwater channels must be designed, constructed, and stabilized using erosion and sedimentation control best management practices that achieve long term erosion control, and must receive adequate routine maintenance to maintain capacity and prevent or correct any erosion of the channel's bottom or sideslopes.
See Chapter 500.7(C)(1).

The standard does not require the construction of ditches, swales, and other open stormwater channels. However, the standard applies when the construction of ditches, swales, and other open stormwater channels is proposed.

- **Ditch and swale design.** In order to achieve long term erosion control, ditches and swales should be sized to handle, at a minimum, the expected volume and rate of runoff from a 10 year frequency storm. They should be stabilized with vegetation or riprap appropriate to the slope, soil, drainage condition and expected runoff velocity. In addition, ditches should be designed to minimize the frequency of required long term maintenance and to maximize the ease with which this maintenance can be performed.

Seemingly well designed and installed ditches often become serious sources of sediment pollution because inadequate provisions have been made for the winter sand load which the ditch will receive. Sand washed off adjacent roads or parking areas fills the ditch, requiring that the sand be removed, often on an annual basis, in order to maintain the ditch's hydraulic capacity. In the process of cleaning out the ditch, the vegetation or riprap is often disturbed or destroyed, and is rarely repaired. The result is a ditch with an exposed soil surface which becomes a chronic erosion problem.

To avoid this problem and reduce the required frequency of maintenance, ditches and swales should be designed with additional capacity to accommodate the expected sand load without compromising ditch hydraulic capacity. Generally speaking, the best way to accomplish this is to avoid narrow ditches with steep side slopes and encourage broad parabolic or trapezoidal swales with shallow (3:1 or shallower) side slopes. This spreads the runoff and sand load over a larger area, making it less likely that the vegetation will be smothered and the ditch become unstable. Another way to deal with the sand load, particularly in ditches with steeper channel slopes or limited space, is to specifically include structures (i.e. sediment traps, permanent checkdams) designed to focus the accumulation of sand in specific places designed for easy clean out. Then, the entire ditch does not need to be frequently disturbed and destabilized.

• **Culvert Design.** Culverts should be sized to avoid unintended flooding. Culvert inlets should be protected with appropriate materials for the expected entrance velocity and protection should extend at least as high as the expected maximum elevation of storage behind the culvert. Culvert outlet design should incorporate measures, such as aprons or plunge pools, to prevent scour of the stream channel. Outlet protection measures should stay within the channel limits, should consider tailwater depth and, wherever appropriate, should provide for fish passage.

• **Ditch Turnouts.** When the watershed draining to a ditch or swale is small, diversion of runoff to adjacent wooded or otherwise vegetated buffer areas is encouraged if the opportunity exists. Frequent turnout of ditch runoff into buffer areas will reduce the required ditch size and the frequency of maintenance necessary, not to mention providing treatment of the stormwater in the buffer area.

(2) STANDARD: Roads. Gravel roads must be designed and constructed with crowns or other measures, such as water bars, to ensure that stormwater is immediately delivered to adjacent stable ditches or vegetated buffer areas. Grading of gravel roads or grading of the gravel shoulders of gravel or paved roads must be routinely performed to ensure that stormwater drains immediately off the road surface to adjacent buffer areas or stable ditches, and is not impeded by accumulations of graded material on the road shoulder or by excavation of false ditches in the shoulder.
See Chapter 500.7(C)(2).

• **Road Design and Construction.** Gravel roads should be designed to shed water off the road surface as quickly as possible. This can be best accomplished by a road profile which is elevated, or crowned, in the middle. A rule of thumb for a gravel road is 1/2 to 3/4 inch of crown for each foot of width. The steeper the road, the more crown is desired. Potholes in gravel roads can be directly related to improper road crown. For low use roads, alternatives such as waterbars, broad based drainage dips, open top culverts, and rubber bars work well if frequently spaced.

• **Grading of gravel roads.** Grading is the process by which the crown is established and maintained on a gravel road. The correct practice is to take material from the road's edge and bring it to the center of the road. This regular action reuses material that washed to the road edge or was pushed to the side by traffic. A berm should not be left at the edge of the grader blade. A berm acts as a barrier, keeping water from entering the ditch and channeling it on the

road surface. Feather bermed material back towards the center of the road, so that the crown extends uninterrupted to the edge of the road and shoulder surface. If a commitment cannot be made to proper and regular grading of gravel roads, a paved road should be considered. Even on a paved road, winter sand may berm up and cause a secondary ditch on the road shoulder, requiring regular grading of the shoulder.

(3) STANDARD: Maintenance. The project site must be maintained to prevent or correct any erosion problems.
See Chapter 500.7(C)(3).

• **Inspection and maintenance.** Ditches and sediment traps should be cleaned out during summer and early fall when it is dry, and immediately revegatated as necessary. In the late fall or early spring, vegetation cannot be quickly reestablished. The ditch should be checked in the late spring and fall for slumps, eroded areas, and dislodged riprap. Slumps should be repaired immediately, and riprap replaced on areas where the filter fabric is showing through the rocks. Any woody vegetation attempting to grow up through the riprap should be removed.

The entire site should be inspected in the late spring and early fall for exposed soil and active or potential erosion problems. Bare areas should be stabilized with vegetation, permanent mulch, or riprap as appropriate.

(4) STANDARD: Wellhead protection area (public water supply). Any project proposing infiltration of stormwater within the wellhead protection area of a public water supply must provide adequate pre-treatment of stormwater prior to discharge of stormwater to the infiltration area, if pre-treatment is recommended as part of applicable stormwater best management practices or required by the department. The infiltration area must minimize discharge of soluble pollutants to groundwater, and must be maintained in order to assure that its capacity for infiltration and pollutant removal is unimpaired.
See Chapter 500.3(J) and 4(C).

If any part of the buffer is in a wellhead protection area, this standard must be met. For additional information, see Section 1, pages 2-3.

C. Submission -- The Basic Stabilization Plan

(1) Location map. A U.S.G.S. topo map or Maine Atlas & Gazetteer Map with the project site clearly marked.

(2) Two copies of a site plan. The plan may be hand drawn, but must be to scale. Show the following.

(a) All existing (pre-7/1/97) and proposed impervious areas (buildings and paved or gravel roads, driveways, and parking areas) and disturbed areas. Please indicate what is existing, and what is proposed.
(b) Property line locations;
(c) Arrows showing slope and the direction of stormwater flow on the site;

(d) Location of any stormwater conveyances or channels (i.e. ditches, swales, pipes, culverts) and any level spreaders; and

(e) Design details of any ditches, swales or level spreaders.

(f) Design details of any roads.

Include cross-sections showing travel width, and crown, ditching, or water bars, if proposed. Provide specifications for the base, the subbase, and the surface materials. Describe the measures to be used to ensure that stormwater drains immediately off the roads and road shoulders to adjacent buffer areas or stable ditches, and is not impeded by accumulations of graded material on the road shoulder or by excavation of false ditches in the shoulder. Clearly designate buffer areas (if used) with dimensions, buffer type and the condition of current vegetation (i.e. forest, field, lawn) shown.

(g) Location of the limits of any wellhead protection areas or parts of wellhead protection areas that are within the buffer.

(3) Maintenance. Describe measures to be used to prevent or correct erosion and to maintain capacity of any channels.

ATTACHMENTS

1. Copy of Chapter 500.7 -- Permit by Rule

The following is a copy of Section 7 of Chapter 500, Stormwater Management. Complete copies of Chapters 500 and 502 are available from the department. Chapter 500 includes definitions of terms, standards for full (non-PBR) projects, off-set and compensation fee requirements, standard conditions, and other materials. Chapter 502 lists the areas identified as "most at risk" and "sensitive or threatened".

7. Permit by rule. A person may apply for a permit by rule from the department prior to beginning work on a project, rather than applying for an individual permit, if the person meets the standards of subsections (A), (B) or (C) below. The application must be on a form provided by the department. The application is deemed approved 14 calendar days after the department receives the application form, unless the department approves or denies the application, or notifies the applicant that the applicant is ineligible for permit by rule, or requires additional information or further review, prior to that date. If the department does not otherwise notify the applicant within the 14-day period, the application is deemed approved by the department.

Designs required pursuant to this section must be prepared under the supervision of, and signed and sealed by, a Registered Professional Engineer in the State of Maine, who by education, training or experience is knowledgeable in stormwater management, with the following exception. If a project includes less than 3 acres of impervious area, then ditches, swales, and other open stormwater channels that drain no more than one acre of land, and level spreaders that receive drainage from no more than one acre of land, must be designed by a Registered Professional Engineer in the State of Maine who by education, training, or experience is knowledgeable in stormwater management, or by a professional who is registered, licensed, or certified in a related land-use field, and by education, training, or experience is knowledgeable in stormwater management, and has received specific training in the design of ditches, grassed swales, and level spreaders at a department-sponsored stormwater management workshop.

A. Small project in the direct watershed of a lake most at risk. For a project that is located within the direct watershed of a lake most at risk other than a severely blooming lake, that will create 20,000 square feet or more, but less than one acre, of new impervious area on the parcel, and that does not require a site location of development permit, the following standards must be met. Stormwater from at least 90% of the project's impervious area must either drain overland in unconcentrated and unchannelized flow to a buffer, or be evenly delivered in unconcentrated and unchannelized flow to a buffer by means of a level spreader.

(1) Wooded buffer width. If the buffer is wooded, it must be at least 75 feet wide as measured along the direction of flow through the buffer.

(2) Non-wooded buffer width. If the buffer is non-wooded, it must be at least 125 feet wide as measured along the direction of flow through the buffer.

(3) Wellhead protection area. If any part of the buffer is in a wellhead protection area, the applicant must detail how the standards of Section 3(J) and 4(C) will be met.

NOTE: "Severely blooming lakes" are a subgroup of waterbodies most at risk and are described in Chapter 502.

B. Small project in the direct watershed of a coastal wetland, river, stream or brook most at risk. For a project that is located within the direct watershed of a coastal wetland, river, stream or brook most at risk, that will create 20,000 square feet or more, but less than 1 acre, of new impervious area, that will have less than or equal to 50% of the parcel area covered by impervious surfaces, and that does not require a site location of development permit, the following standards must be met. Stormwater from at least 90% of the project's impervious area must either drain overland in unconcentrated and unchannelized flow to a buffer, or be evenly delivered in unconcentrated and unchannelized flow to a buffer by means of a level spreader.

(1) Wooded buffer width. If the buffer is wooded, it must be at least 50 feet wide as measured along the direction of flow through the buffer.

(2) Non-wooded buffer width. If the buffer is non-wooded, it must be at least 100 feet wide as measured along the direction of flow through the buffer.

(3) Wellhead protection area. If any part of the buffer is in a wellhead protection area, the applicant must detail how the standard of Section 3(J) and 4(C) of this chapter will be met.

C. Small project in a sensitive or threatened region or watershed. For a project that is located in a sensitive or threatened region or watershed, that will create less than three acres of impervious area and less than five acres of disturbed area on the parcel, and that does not require a site location of development permit, the following stormwater quality standards must be met.

(1) Ditches, swales, and other open stormwater channels. Ditches, swales, and other open stormwater channels must be designed, constructed, and stabilized using erosion and sedimentation control best management practices that achieve long term erosion control, and must receive adequate routine maintenance to maintain capacity and prevent or correct any erosion of the channel's bottom or sideslopes.

(2) Roads. Gravel roads must be designed and constructed with crowns or other measures, such as water bars, to ensure that stormwater is immediately delivered to adjacent stable ditches or vegetated buffer areas. Grading of gravel roads or grading of the gravel shoulders of gravel or paved roads, must be routinely performed to ensure that stormwater drains immediately off the road surface to adjacent buffer areas or stable ditches, and is not impeded by accumulations of graded material on the road shoulder or by excavation of false ditches in the shoulder.

(3) Maintenance. The project site must be maintained to prevent or correct any erosion problems.

(4) Wellhead protection area. If any part of the buffer is in a wellhead protection area, the applicant must detail how the standards of Section 3(J) and 4(C) will be met.

NOTE: The department recommends that impervious surfaces, including roads, be designed and constructed so that stormwater is distributed in sheet flow to natural vegetated buffer areas wherever such areas are available. Road ditches should be designed so that stormwater is frequently (every 200 to 400 feet) discharged via ditch turnouts in sheet flow to adjacent natural buffer areas wherever possible. Buffer areas are effective at removing pollutants from stormwater before it reaches a drainage way, stream or other waterbody. Buffers may also be effective in controlling stormwater quantity impacts. See Section 3(A)(2).

---

2. Copy of Chapter 500.9(A) -- Standard Conditions

The following is a copy of Chapter 500.9(A). These condition provisions apply to each permit by rule.

A. Standard conditions of approval. Unless otherwise specifically stated in the approval, a department approval is subject to the following standard conditions.

(1) Approval of variations from plans. The granting of this approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents must be reviewed and approved by the department prior to implementation. Any variation undertaken without approval of the department is in violation of 38 M.R.S.A. § 420-D(8) and is subject to penalties under 38 M.R.S.A. § 349.

(2) Compliance with all terms and conditions of approval. The applicant shall submit all reports and information requested by the department demonstrating that the applicant has complied or will comply with all terms and conditions of this approval. All preconstruction terms and conditions must be met before construction begins.

(3) Advertising. Advertising relating to matters included in this application may not refer to this approval unless it notes that the approval has been granted WITH CONDITIONS, and indicates where copies of those conditions may be obtained.

(4) Transfer of project. Unless otherwise provided in this approval, the applicant may not sell, lease, assign, or otherwise transfer the project or any portion thereof without written approval by the department where the purpose or consequence of the transfer is to transfer any of the obligations of the developer as incorporated in this approval. Such approval may only be granted if the applicant or transferee demonstrates to the department that the transferee agrees to comply with conditions of this approval and the proposals and plans contained in the application and supporting documents submitted by the applicant. Approval of a transfer of the permit must be applied for no later than two weeks after any transfer of property subject to the license.

(5) Initiation of project within two years. If the construction or operation of the activity is not begun within two years, this approval shall lapse and the applicant shall reapply to the department for a new approval. The applicant may not begin construction or operation of the project until a new approval is granted. A reapplication for approval may include information submitted in the initial application by reference.

(6) Reexamination after five years. If the project is not completed within five years from the date of the granting of approval, the department may reexamine its approval and impose additional terms or conditions or prescribe other necessary corrective action to respond to significant changes in circumstances or requirements which may have occurred during the five-year period.

(7) Certification. Contracts must specify that "all work is to comply with the conditions of the Stormwater Permit." Work done by a contractor or subcontractor pursuant to this approval may not begin before the contractor and any subcontractors have been shown a copy of this approval with the conditions by the developer, and the owner and each contractor and subcontractor has certified, on a form provided by the department, that the approval and

conditions have been received and read, and that the work will be carried out in accordance with the approval and conditions. Completed certification forms must be forwarded to the department.

(8) Maintenance. The components of the stormwater management system must be adequately maintained to ensure reasonable operation of the system.

B. Special conditions. The department may, as a term or condition of approval, establish any reasonable requirement to ensure that the proposed project will proceed in accordance with the Stormwater Management Law and rules. However, terms and conditions must address themselves to specifying particular means of satisfying minor or easily corrected problems relating to compliance with the Stormwater Management Law, and may not substitute for or reduce the burden of proof of the developer to affirmatively demonstrate to the department that each of the standards of the Stormwater Management Law has been met.

Example templates for declaration of covenants and restrictions

DECLARATION OF RESTRICTIONS (Wooded Buffer, Limited Disturbance)

THIS DECLARATION OF RESTRICTIONS is made this _____day of _____, 19___, by _____, _____,
(name) (street address)
_____, _____ County, Maine, _____, (herein referred to as the
(city or town) (county) (zipcode)
"Declarant"), pursuant to a permit received from the Maine Department of Environmental Protection under the Stormwater Management Law, to preserve a buffer area on a parcel of land near _____, _____.
(road name) (known feature and/or town)

WHEREAS, the Declarant holds title to certain real property situated in _____, Maine
(town)
described in a deed from _____ to _____ dated
(name) (name of Declarant)
_____, 19____, and recorded in Book ____ Page ____ at the _____County Registry of Deeds, herein referred to as the "property"; and

WHEREAS, Declarant desires to place certain restrictions, under the terms and conditions herein, over a portion of said real property (hereinafter referred to as the "Restricted Buffer") described as follows: (Note: Insert description of restricted buffer area location here)

WHEREAS, pursuant to the Stormwater Management Law, 38 M.R.S.A. Section 420-D and Chapter 500 of rules promulgated by the Maine Board of Environmental Protection ("Stormwater Management Rules"), Declarant has agreed to impose certain restrictions on the Restricted Buffer Area as more particularly set forth herein and has agreed that these restrictions may be enforced by the Maine Department of Environmental Protection or any successor (hereinafter the "MDEP"),

NOW, THEREFORE, the Declarant hereby declares that the Restricted Buffer Area is and shall forever be held, transferred, sold, conveyed, occupied and maintained subject to the conditions and restrictions set forth herein. The Restrictions shall run with the Restricted Buffer Area and shall be binding on all parties having any right, title or interest in and to the Restricted Buffer Area, or any portion thereof, and their heirs, personal representatives, successors, and assigns. Any present or future owner or occupant of the Restricted Buffer Area or any portion thereof, by the acceptance of a deed of conveyance of all or part of the Covenant Area or an instrument conveying any interest therein, whether or not the deed or instrument shall so express, shall be deemed to have accepted the Restricted Buffer Area subject to the Restrictions and shall agree to be bound by, to comply with and to be subject to each and every one of the Restrictions hereinafter set forth.

1. Restrictions on Restricted Buffer Area. Unless the owner of the Restricted Buffer Area, or any successors or assigns, obtains the prior written approval of the MDEP, the Restricted Buffer Area must remain undeveloped in perpetuity. To maintain the ability of the Restricted Buffer Area to filter and absorb stormwater, and to maintain compliance with the Stormwater Management Law and the permit issued thereunder to the Declarant, the use of the Restricted Buffer Area is hereinafter limited as follows.

a. No soil, loam, peat, sand, gravel, concrete, rock or other mineral substance, refuse, trash, vehicle bodies or parts, rubbish, debris, junk waste, pollutants or other fill material may be placed, stored or dumped on the Restricted Buffer Area, nor may the topography of the area be altered or manipulated in any way;

b. Any removal of trees or other vegetation within the Restricted Buffer Area must be limited to the following:

(1) No purposefully cleared openings may be created and an evenly distributed stand of trees and other vegetation must be maintained. An "evenly distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of 12 points in any 25 foot by 25 foot square (625 square feet) area, as determined by the following rating scheme:

Diameter of tree at 4½ feet above ground level	Points
2 - 4 inches	1
4 - 12 inches	2
>12 inches	4

Where existing trees and other vegetation result in a rating score less than 12 points, no trees may be cut or sprayed with biocides except for the normal maintenance of dead, windblown or damaged trees and for pruning of tree branches below a height of 12 feet provided two thirds of the tree's canopy is maintained;

(2) No undergrowth, ground cover vegetation, leaf litter, organic duff layer or mineral soil may be disturbed except that one winding path, that is no wider than six feet and that does not provide a downhill channel for runoff, is allowed through the area;

c. No building, sign, fence, utility pole, or other temporary or permanent structure may be constructed, placed or permitted to remain on the Restricted Buffer Area;

d. No trucks, cars, dirt bikes, ATVs, bulldozers, backhoes, or other motorized vehicles or mechanical equipment may be permitted on the Restricted Buffer Area;

e. Any level spreader directing flow to the Restricted Buffer Area must be regularly inspected and adequately maintained to preserve the function of the level spreader.

Any activity on or use of the Restricted Buffer Area inconsistent with the purpose of these Restrictions is prohibited. Any future alterations or changes in use of the Restricted Buffer Area must receive prior approval in writing from the MDEP. The MDEP may approve such alterations and changes in use if such alterations and uses do not impede the stormwater control and treatment capability of the Restricted Buffer Area or if adequate and appropriate alternative means of stormwater control and treatment are provided.

2. Enforcement. The MDEP may enforce any of the Restrictions set forth in Section 1 above.

3. Binding Effect. The restrictions set forth herein shall be binding on any present or future owner of the Restricted Buffer Area. If the Restricted Buffer Area is at any time owned by more than one owner, each owner shall be bound by the foregoing restrictions to the extent that any of the Restricted Buffer Area is included within such owner's property.

4. Amendment. Any provision contained in this Declaration may be amended or revoked only by the recording of a written instrument or instruments specifying the amendment or the revocation signed by the owner or owners of the Restricted Buffer Area and by the MDEP.

5. Effective Provisions of Declaration. Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, shall be deemed a land use restriction running with the land as a burden and upon the title to the Restricted Buffer Area.

6. Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.

7. Governing Law. This Declaration shall be governed by and interpreted in accordance with the laws of the State of Maine.

(NAME)

_____

STATE OF MAINE
_____, ss _____, 19__.
(County)

Personally appeared before me the above named _____, who swore to the truth of the foregoing to the best of (his/her) knowledge, information and belief and acknowledged the foregoing instrument to be (his/her) free act and deed.

_____
Notary Public

_____

DECLARATION OF RESTRICTIONS (Wooded Buffer, No Disturbance)

THIS DECLARATION OF RESTRICTIONS is made this _____day of _____, 19___, by _____, _____,
(name) (street address)
_____, _____ County, Maine, _____, (herein referred to as the
(city or town) (county) (zipcode)
"Declarant"), pursuant to a permit received from the Maine Department of Environmental Protection under the Stormwater Management Law, to preserve a buffer area on a parcel of land near _____, _____.
(road name) (known feature and/or town)

WHEREAS, the Declarant holds title to certain real property situated in _____, Maine
(town)
described in a deed from _____ to _____ dated
(name) (name of Declarant)
_____, 19____, and recorded in Book ____ Page ____ at the _____County Registry of Deeds, herein referred to as the "property"; and

WHEREAS, Declarant desires to place certain restrictions, under the terms and conditions herein, over a portion of said real property (hereinafter referred to as the "Restricted Buffer") described as follows: (Note: Insert description of restricted buffer location here)

WHEREAS, pursuant to the Stormwater Management Law, 38 M.R.S.A. Section 420-D and Chapter 500 of rules promulgated by the Maine Board of Environmental Protection ("Stormwater Management Rules"), Declarant has agreed to impose certain restrictions on the Restricted Buffer Area as more particularly set forth herein and has agreed that these restrictions may be enforced by the Maine Department of Environmental Protection or any successor (hereinafter the "MDEP"),

NOW, THEREFORE, the Declarant hereby declares that the Restricted Buffer Area is and shall forever be held, transferred, sold, conveyed, occupied and maintained subject to the conditions and restrictions set forth herein. The Restrictions shall run with the Restricted Buffer Area and shall be binding on all parties having any right, title or interest in and to the Restricted Buffer Area, or any portion thereof, and their heirs, personal representatives, successors, and assigns. Any present or future owner or occupant of the Restricted Buffer Area or any portion thereof, by the acceptance of a deed of conveyance of all or part of the Covenant Area or an instrument conveying any interest therein, whether or not the deed or instrument shall so express, shall be

deemed to have accepted the Restricted Buffer Area subject to the Restrictions and shall agree to be bound by, to comply with and to be subject to each and every one of the Restrictions hereinafter set forth.

1. Restrictions on Restricted Buffer Area. Unless the owner of the Restricted Buffer Area, or any successors or assigns, obtains the prior written approval of the MDEP, the Restricted Buffer Area must remain undeveloped in perpetuity. To maintain the ability of the Restricted Buffer Area to filter and absorb stormwater, and to maintain compliance with the Stormwater Management Law and the permit issued thereunder to the Declarant, the use of the Restricted Buffer Area is hereinafter limited as follows.

a. No soil, loam, peat, sand, gravel, concrete, rock or other mineral substance, refuse, trash, vehicle bodies or parts, rubbish, debris, junk waste, pollutants or other fill material will be placed, stored or dumped on the Restricted Buffer Area, nor shall the topography of the area be altered or manipulated in any way;

b. No trees may be cut or sprayed with biocides except for the normal maintenance of dead, windblown or damaged trees and for pruning of tree branches below a height of 12 feet provided two thirds of the tree's canopy is maintained;

c. No undergrowth, ground cover vegetation, leaf litter, organic duff layer or mineral soil may be disturbed except that one winding path, that is no wider than six feet and that does not provide a downhill channel for runoff, is allowed through the area;

d. No building, sign, fence, utility pole, or other temporary or permanent structure may be constructed, placed or permitted to remain on the Restricted Buffer Area;

e. No trucks, cars, dirt bikes, ATVs, bulldozers, backhoes, or other motorized vehicles or mechanical equipment may be permitted on the Restricted Buffer Area;

f. Any level spreader directing flow to the Restricted Buffer Area must be regularly inspected and adequately maintained to preserve the function of the level spreader.

Any activity on or use of the Restricted Buffer Area inconsistent with the purpose of these Restrictions is prohibited. Any future alterations or changes in use of the Restricted Buffer Area must receive prior approval in writing from the MDEP. The MDEP may approve such alterations and changes in use if such alterations and uses do not impede the stormwater control and treatment capability of the Restricted Buffer Area or if adequate and appropriate alternative means of stormwater control and treatment are provided.

2. Enforcement. The MDEP may enforce any of the Restrictions set forth in Section 1 above.

3. Binding Effect. The restrictions set forth herein shall be binding on any present or future owner of the Restricted Buffer Area. If the Restricted Buffer Area is at any time owned by more than one owner, each owner shall be bound by the foregoing restrictions to the extent that any of the Restricted Buffer Area is included within such owner's property.

4. Amendment. Any provision contained in this Declaration may be amended or revoked only by the recording of a written instrument or instruments specifying the amendment or the revocation signed by the owner or owners of the Restricted Buffer Area and by the MDEP.

5. Effective Provisions of Declaration. Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, shall be deemed a land use restriction running with the land as a burden and upon the title to the Restricted Buffer Area.

6. Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.

7. Governing Law. This Declaration shall be governed by and interpreted in accordance with the laws of the State of Maine.

(NAME)

_____

STATE OF MAINE

_____, ss _____, 19__.
(County)

Personally appeared before me the above named _____, who swore to the truth of the foregoing to the best of (his/her) knowledge, information and belief and acknowledged the foregoing instrument to be (his/her) free act and deed.

_____
Notary Public

_____

DECLARATION OF RESTRICTIONS (Non-Wooded Buffer)

THIS DECLARATION OF RESTRICTIONS is made this _____day of _____, 19___, by _____, _____, (name) (street address)

_____, _____ County, Maine, _____, (herein referred to as the (city or town) (county) (zipcode)

"Declarant"), pursuant to a permit received from the Maine Department of Environmental Protection under the Stormwater Management Law, to preserve a buffer area on a parcel of land near _____, _____. (road name) (known feature and/or town)

WHEREAS, the Declarant holds title to certain real property situated in _____, Maine (town)

described in a deed from _____ to _____ dated (name) (name of Declarant)

_____, 19____, and recorded in Book ____ Page ____ at the _____County Registry of Deeds, herein referred to as the "property"; and

WHEREAS, Declarant desires to place certain restrictions, under the terms and conditions herein, over a portion of said real property (hereinafter referred to as the "Restricted Buffer") described as follows: (Note: Insert description of restricted buffer location here)

WHEREAS, pursuant to the Stormwater Management Law, 38 M.R.S.A. Section 420-D and Chapter 500 of rules promulgated by the Maine Board of Environmental Protection ("Stormwater Management Rules"), Declarant has agreed to impose certain restrictions on the Restricted Buffer Area as more particularly set forth herein and has agreed that these restrictions may be enforced by the Maine Department of Environmental Protection or any successor (hereinafter the "MDEP"),

NOW, THEREFORE, the Declarant hereby declares that the Restricted Buffer Area is and shall forever be held, transferred, sold, conveyed, occupied and maintained subject to the conditions and restrictions set forth herein. The Restrictions shall run with the Restricted Buffer Area and shall be binding on all parties having any right, title or interest in and to the Restricted Buffer Area, or any portion thereof, and their heirs, personal representatives, successors, and assigns. Any present or future owner or occupant of the Restricted Buffer Area or any portion thereof, by the acceptance of a deed of conveyance of all or part of the Covenant Area or an instrument conveying any interest therein, whether or not the deed or instrument shall so express, shall be deemed to have accepted the Restricted Buffer Area subject to the Restrictions and shall agree to

be bound by, to comply with and to be subject to each and every one of the Restrictions hereinafter set forth.

1. Restrictions on Restricted Buffer Area. Unless the owner of the Restricted Buffer Area, or any successors or assigns, obtains the prior written approval of the MDEP, the Restricted Buffer Area must remain undeveloped in perpetuity. To maintain the ability of the Restricted Buffer Area to filter and absorb stormwater, and to maintain compliance with the Stormwater Management Law and the permit issued thereunder to the Declarant, the use of the Restricted Buffer Area is hereinafter limited as follows.

a. No soil, loam, peat, sand, gravel, concrete, rock or other mineral substance, refuse, trash, vehicle bodies or parts, rubbish, debris, junk waste, pollutants or other fill material will be placed, stored or dumped on the Restricted Buffer Area, nor may the topography or the natural mineral soil of the area be altered or manipulated in any way;

b. A dense cover of grassy vegetation must be maintained over the Restricted Buffer Area, except that shrubs, trees and other woody vegetation may also be planted or allowed to grow in the area. The Restricted Buffer Area may not be maintained as a lawn or used as a pasture. If vegetation in the Restricted Buffer Area is mowed, it may be mown no more than three times per year, to a height of no less than 6 inches.

c. No building or other temporary or permanent structure may be constructed, placed or permitted to remain on the Restricted Buffer Area, except for a sign, utility pole or fence;

d. No trucks, cars, dirt bikes, ATVs, bulldozers, backhoes, or other motorized vehicles or mechanical equipment may be permitted on the Restricted Buffer Area, except for vehicles used in mowing;

e. Any level spreader directing flow to the Restricted Buffer Area must be regularly inspected and adequately maintained to preserve the function of the level spreader.

Any activity on or use of the Restricted Buffer Area inconsistent with the purpose of these Restrictions is prohibited. Any future alterations or changes in use of the Restricted Buffer Area must receive prior approval in writing from the MDEP. The MDEP may approve such alterations and changes in use if such alterations and uses do not impede the stormwater control and treatment capability of the Restricted Buffer Area or if adequate and appropriate alternative means of stormwater control and treatment are provided.

2. Enforcement. The MDEP may enforce any of the Restrictions set forth in Section 1 above.

3. Binding Effect. The restrictions set forth herein shall be binding on any present or future owner of the Restricted Buffer Area. If the Restricted Buffer Area is at any time owned by more than one owner, each owner shall be bound by the foregoing restrictions to the extent that any of the Restricted Buffer Area is included within such owner's property.

4. Amendment. Any provision contained in this Declaration may be amended or revoked only by the recording of a written instrument or instruments specifying the amendment or the revocation signed by the owner or owners of the Restricted Buffer Area and by the MDEP.

5. Effective Provisions of Declaration. Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, shall be deemed a land use restriction running with the land as a burden and upon the title to the Restricted Buffer Area.

6. Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.

7. Governing Law. This Declaration shall be governed by and interpreted in accordance with the laws of the State of Maine.

(NAME)

_____

STATE OF MAINE

_____, ss (County) _____, 19__.

Personally appeared before me the above named _____, who swore to the truth of the foregoing to the best of (his/her) knowledge, information and belief and acknowledged the foregoing instrument to be (his/her) free act and deed.

_____
Notary Public

_____